

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ST. CLAIR INTELLECTUAL PROPERTY
CONSULTANTS, INC.

Plaintiff,

v.

MIRAGE SYSTEMS, INC., a California corporation,
GEORGE J. MOUSSALLY, an individual, and
KENNETH L. FORD, an individual,

Defendants.

Civil Action No. 05-273 JJF

JURY TRIAL DEMANDED

**PLAINTIFF'S ANSWERING BRIEF IN OPPOSITION TO DEFENDANTS GEORGE J.
MOUSSALLY AND KENNETH L. FORD'S MOTION TO DISMISS FOR
IMPROPER VENUE**

Dated: July 6, 2005

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NATURE AND STAGE OF PROCEEDINGS AND STATEMENT OF FACTS

St. Clair incorporates the Nature and Stage of Proceedings and Statement of Facts sections from St. Clair's Answering Brief to Defendants' Motion to Stay, or, in the Alternative, to Stay St. Clair's Declaratory Judgment Action filed concurrently with this response.

SUMMARY OF ARGUMENT AND ARGUMENT

As St. Clair has argued in numerous briefs to this Court, expedited litigation of the ownership issue will assist in the just and speedy resolution of all St. Clair litigation. In the present action, St. Clair expects that its tort claims against Defendants Moussally and Ford will be addressed only after the ownership issue has been finally resolved. Nevertheless, the District of Delaware is a proper venue for St. Clair's claims against Defendants Moussally and Ford.

A substantial part of the events giving rise to St. Clair's claims against Defendants Moussally and Ford occurred in the District of Delaware. *See* 28 U.S.C. 1391(a)(2). Defendants Moussally and Ford submitted declarations concerning ownership in the District of Delaware—to this very Court—in the *St. Clair v. Canon* case. Moreover, Defendants Moussally and Ford's dissemination of Mirage's complaint, in addition to other unfounded claims of ownership, was directed at disturbing litigations pending in the District of Delaware and at potential license agreements that included stipulations to be filed in the District of Delaware. These disturbances, all events that happened in the District of Delaware, caused St. Clair undeniable injury in the District of Delaware; St. Clair must now endure the expense and burden of continuing the litigation of cases in the District to Delaware against defendants, some being Delaware citizens, that likely would have settled but for Defendants Moussally and Ford's unfounded ownership claims.¹

¹ Contrary to defendant's assertion, injury in a judicial district can be an important factor in determining proper venue. *See, e.g., Bates v. C & S Adjusters*, 980 F.2d 865, 868 (2nd Cir. 1992) (holding that mere receipt of

Defendants Moussally and Ford's unfounded ownership claims have always been aimed at the District of Delaware. They were first intended for those involved in the *St. Clair v. Canon* litigation; they next targeted the *St. Clair v. Samsung* litigation. Litigating St. Clair's claims in the District of Delaware is therefore only fair, as Defendants Moussally and Ford have known since they first became involved with the Roberts patents that the District of Delaware was St. Clair's chosen venue. To be sure, Defendants Moussally and Ford are not being "haled into a remote district having no real relationship for the dispute." *Cottman Transmission Sys., Inc. v. Martino*, 36 F.3d 291, 294 (3rd Cir. 1994). The District of Delaware is a proper venue for St. Clair's claims against Defendants Moussally and Ford.

CONCLUSION

For the foregoing reasons, St. Clair requests that the Court deny Defendants Moussally and Ford's Motion to Dismiss for Improper Venue.

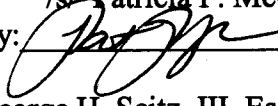
Dated: July 6, 2005

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collection notice forwarded into judicial district by the Postal Service was "substantial part of the events or omissions" under Section 1391, because harm thus occurred in that judicial district), cited and discussed favorably in *Cottman Transmission Sys., Inc. v. Martino*, 36 F.3d 291, 294 (3rd Cir. 1994).

CERTIFICATE OF SERVICE

I, Patricia P. McGonigle, Esquire, hereby certify that on this 6th day of July 2005, I electronically filed the following document with the Clerk of Court using CM/ECF which will send notification of such filing to counsel of record.

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GEORGE J. MOUSSALLY AND KENNETH L. FORD'S
MOTION TO DISMISS FOR IMPROPER VENUE**

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